

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS – CENTRAL DIVISION**

JOSEPH M. LOSAPIO,
Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,
Defendant.

C.A. NO.: 04-40156

**DEFENDANT METROPOLITAN LIFE INSURANCE
COMPANY'S MOTION TO STAY**

Defendant, METROPOLITAN LIFE INSURANCE COMPANY (hereinafter referred to as "MetLife") moves this Honorable Court to stay all discovery and motions in the above captioned matter.

As grounds for this motion MetLife states (as fully set forth in the attached Memorandum of Law):

1. This action arises out of a claim for disability benefits brought by Plaintiff, Joseph M. Losapio, based on his alleged residual disability. Plaintiff filed two separate lawsuits, one alleging breach of contract, the other alleging violation of Massachusetts General Laws, Chapter 93A. MetLife removed the 93A case to this court. Plaintiff refused to consolidate the two cases in Federal Court, and MetLife's Motion to Consolidate the two related cases was denied.
2. MetLife now seeks to stay the Chapter 93A lawsuit pending the outcome of the State Court action because the underlying facts and issues are exactly the same as those brought in state court under a breach of contract action.
4. To continue with the separate 93A action while the underlying breach of contract action is still pending in state court would cause tremendous confusion in that the State and Federal Courts could conceivably issue conflicting rulings based on the same underlying facts. The witnesses in both actions will be the same, which will result in duplicative discovery and a waste of judicial resources. Attorneys for the parties will be

forced to take and defend two depositions of each witness for each case. And Plaintiff will have access to discovery in one case that is privileged in the other ongoing state case.

5. Further, should the State Court issue a ruling in Lincoln National's favor, the Federal 93A claim against MetLife will be moot.

WHEREFORE, MetLife respectfully requests that this Honorable Court stay this M.G.L. Chapter 93A action pending the conclusion of the state court proceedings.

REQUEST FOR ORAL ARGUMENT

LOCAL RULE 7.1 CERTIFICATE OF CONSULTATION

I hereby certify that on September 24, 2004, we conferred with opposing counsel in an attempt to narrow the issues presented by the underlying Motion.



James J. Ciapciak

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY

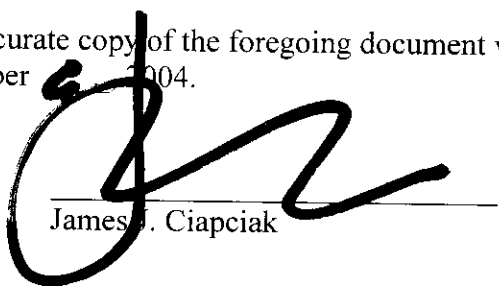


By its Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was served upon Counsel of Record on October 7, 2004.



James J. Ciapciak